

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTOPHER D. VILLALPANDO,

Defendant.

Case No. 08-CR-098-C

MOTION TO SUPPRESS

NOW COMES the defendant, Christopher D. Villalpando, by his attorneys, Eisenberg Law Offices, S.C., by Mark A. Eisenberg, and moves the Court for an order suppressing any and all evidence seized and any and all statements made by the defendant in the above-entitled matter on the grounds that the statements made by the defendant were involuntary and violated his Fifth Amendment rights under the United States Constitution, and further that the search warrant of his home was based solely on the involuntary statements made by him and, therefore, should be suppressed as fruit of the poisonous tree under Wong Sun v. United States, 371 U.S. 471 (1963). This motion is based upon the Affidavit attached hereto and the tape recording of the interview between Detective Denise Markham and the defendant at the time the defendant was stopped and taken into custody on August 29, 2007. At that time the detective made numerous promises to the defendant that if he cooperated, he would not be charged. This makes his confession involuntary. See U.S. v. Kontny, 238 F.3d 815 (7th Cir. 2001), citing U.S. v. Baldwin, 60 F.3d 363, 365 (7th Cir. 1995); Hutto v. Ross, 429 U.S. 28, 30 (1976), citing Bram v. United States, 168 U.S. 532, 542-543 (1897). The defendant respectfully requests an evidentiary hearing on this matter.

Dated this 18th day of September, 2008.

EISENBERG LAW OFFICES, S.C.

/s/ Mark A. Eisenberg

Mark A. Eisenberg

State Bar Number: 01013078

308 E. Washington Avenue

P. O. Box 1069

Madison, WI 53701-1069

Telephone: (608) 256-8356

Fax: (608) 256-2875

E-mail: mark@eisenberglaw.org

Attorneys for Defendant, Christopher D. Villalpando

CERTIFICATE OF SERVICE

I hereby certify that on September 18, 2008, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Meredith P. Duchemin, Assistant United States Attorney

/s/ Mark A. Eisenberg

Mark A. Eisenberg